

## TWENTY-THIRD DIVISION

[ CA-G.R. SP NO. 04876-MIN, February 27, 2015 ]

**REGINA PERALTA, PETITIONER, VS. JUDGE GEORGE E. OMELIO,  
IN HIS CAPACITY AS THE PRESIDING JUDGE OF BRANCH 14 OF  
THE REGIONAL TRIAL COURT OF DAVAO CITY, THE PEOPLE OF  
THE PHILIPPINES AND SPOUSES JOHNNY AND CARMEN GO.  
RESPONDENTS.**

### D E C I S I O N

**CONTRERAS, J.:**

#### The Case

Before us is a Petition for Certiorari under Rule 65 of the Revised Rules of Court, assailing the Order<sup>[1]</sup> of the Regional Trial Court (hereafter RTC) denying the "Urgent *pro se* Motion for Recusal" filed by Regina Peralta (hereafter Peralta) against RTC Presiding Judge George E. Omelio (hereafter Judge Omelio) of Branch 14 in Davao City.

A Motion for Reconsideration was likewise denied.<sup>[2]</sup>

#### The Facts

The records reveal the following antecedents:

Peralta, a resident of Davao City, is one of the accused in Criminal Case No. 65,463-09 for estafa under article 315, par. 1(b) and par. 2 (a) of the Revised Penal Code. Such case was filed sometime in May 2008 before Branch 14 of the RTC in Davao City.<sup>[3]</sup> The estafa case was instituted by the spouses Johnny and Carmen Go (hereafter spouses Go) who are also residents of Davao City against Peralta and a certain Mark Sia (hereafter Sia). Judge Omelio was then the Presiding Judge of Branch 14.<sup>[4]</sup>

The spouses Go alleged that on June 18, 2010, a compromise agreement was executed by the parties where Peralta and her co- accused Sia promised to pay a minimal amount of Twenty Thousand Pesos (PHP 20,000.00) each month until the full obligation amounting to Three Million Pesos (PHP 3,000,000.00) will be settled. Peralta and Sia were able to comply with only the first three payments. So the spouses Go filed an urgent motion to reinstate the estafa case against both accused on January 10, 2011.

In the meantime, on June 11, 2010, Peralta instituted an administrative complaint against Judge Omelio for gross ignorance of the law for his conduct in another civil case involving her and the Land Bank of the Philippines. The complaint alleged that Judge Omelio issued a Temporary Restraining Order without hearing, despite the

prior denial of an *ex parte* 72-hour TRO by the Executive Judge in civil case no 33,291-10.<sup>[5]</sup>

On January 17, 2011, the administrative case was referred to the Court of Appeals in Cagayan de Oro city for investigation, report and recommendation.

On February 14, 2011, Peralta filed an Urgent *pro se* Motion for Recusal<sup>[6]</sup> asking Judge Omelio to inhibit from the estafa case due to the pendency of the investigation of her administrative complaint against him. Peralta alleged that Judge Omelio was biased against her; thus, she cannot hope for the impartiality that the Constitution guaranteed to her as an accused.

In their opposition,<sup>[7]</sup> spouses Go are asking that Judge Omelio be retained and invoked substantive justice, asserting that the inhibition of the judge would cause a great disservice and create needless delay in the administration of justice, in the absence of a valid ground for the inhibition.

Judge Omelio denied Peralta's motion, stating that various adverse rulings against Peralta and the pendency of the administrative complaint she filed against him do not qualify as grounds for inhibition since it is "not the clear and convincing evidence that would sufficiently prove bias and prejudice. XXX To prove bias and prejudice on the part of the respondent judge, petitioners (Peralta and Sia) harp on the alleged adverse and erroneous rulings of respondent judge on their various motions. By themselves, however, they do not sufficiently prove bias and prejudice to disqualify respondent judge."<sup>[8]</sup> In the same order of denial, Judge Omelio also set the resumption of the hearing of the estafa case on June 28, 2011.

Peralta filed a Motion for Reconsideration,<sup>[9]</sup> arguing that the right of the accused to an impartial trial is constitutional in origin and that she does not believe she will be accorded an impartial and fair trial due to the pending administrative case she filed against Judge Omelio. Peralta also argued that a judge must not only be impartial but must also appear to be impartial to preserve the trust and faith of party litigants in the judiciary.

A hearing was conducted to determine the propriety of the inhibition. Spouses Go presented the common law husband of Peralta to testify on her pattern of behavior constituting delaying tactics in various cases against her. It was allegedly Peralta's scheme to file motions for inhibition of the judges who will handle her cases, change counsel, or raise the issue of prejudicial question to delay the proceedings so that among the several cases filed against her, so far none went on trial.<sup>[10]</sup> Similarly, this case was still in its pre-trial stage four (4) years after its institution.<sup>[11]</sup>

On February 15, 2012, Judge Omelio denied the Motion for Reconsideration. Judge Omelio ruled that Peralta is "virtually engaged in forum-shopping by having her case transferred from one sala to another via motion for inhibition to delay or perhaps to look for a court that can sympathize with her cause."<sup>[12]</sup>

The Order<sup>[13]</sup> pertinently provides: